

1 Dean M. Harvey (SBN 250298)
2 Katherine C. Lubin (SBN 259826)
3 Michelle A. Lamy (SBN 308174)
4 Miriam E. Marks (SBN 332351)
5 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
6 275 Battery Street, 29th Floor
7 San Francisco, CA 94111
8 Telephone: (415) 956-1000
9 dharvey@lchb.com
10 kbenson@lchb.com
11 mlamy@lchb.com
12 mmarks@lchb.com

Interim Class Counsel

(Additional counsel listed on signature page)

13 IN RE CALIFORNIA BAIL BOND
ANTITRUST LITIGATION

Case No. 4:19-cv-00717-JST

15 || This Document Relates To:

CLASS ACTION

ALL ACTIONS

**ADMINISTRATIVE MOTION TO
CORRECT THE DECLARATION OF
DARRYL ANDERSON (DKT. 285)**

1 **I. INTRODUCTION**

2 Pursuant to Local Rule 7-11, Plaintiffs hereby move to correct Exhibits 4, 6, 8, and 10 to
 3 the Declaration of Darryl Anderson (Dkt No. 285). Those Exhibits, submitted by Defendants in
 4 support of their Joint Motion to Dismiss Plaintiffs' Third Consolidated Amended Complaint (Dkt.
 5 No. 284), contain material errors. Immediately after confirming these errors with their litigation
 6 support professionals, Plaintiffs alerted Defendants, and asked if there were any objections to
 7 Plaintiffs filing the corrected and completed documents. Defendants confirmed they do not
 8 object. *See Decl. of Dean M. Harvey ¶¶ 7-8*, submitted herewith.

9 **II. CORRECTIONS TO THE ANDERSON DECLARATION**

10 ***Exhibit 4.*** Defendants purport to attach as Exhibit 4 a “true and correct copy of a
 11 document beginning at bates label GSBA000002210, which is a document produced by nonparty
 12 Golden State Bail Agents Association in this litigation.” Dkt. No. 285 ¶ 5. Defendants continue:
 13 “In paragraphs 143 and 144 of the TCAC, Plaintiffs describe and quote from a March 18, 2009
 14 email from Topo Padilla as a basis for their allegations. The document attached hereto at Exhibit
 15 4 is the document referenced in paragraphs 143 and 144 of the TCAC.” *Id.*

16 However, Defendants have since confirmed that Exhibit 4 is not, in fact, a copy of the
 17 email produced at GSBA000002210 or referenced in paragraphs 143 and 144 of the TCAC, but
 18 instead a different copy of that email, which appends another document that is neither an
 19 attachment to that email nor part of GSBA000002210. When Plaintiffs asked Defendants about
 20 the alteration to GSBA000002210, Defendants acknowledged that the improper attachment
 21 comes from a separate production, but did not offer any explanation for its inclusion in Exhibit
 22 4. Harvey Decl. ¶ 8. To avoid confusion, Exhibit 4 should be disregarded, and the Court should
 23 rely instead on the actual true and correct copy of GSBA000002210, which is filed herewith. *See*
 24 Harvey Decl., Ex. A.

25 ***Exhibit 6.*** Defendants purport to attach as Exhibit 6 a “true and correct copy of a
 26 document beginning at bates label CBAA000008537, which is a document produced by nonparty
 27 California Bail Agents Association in this litigation.” Dkt. No. 285 ¶ 7. Defendants continue:
 28 “In paragraph 161 of the TCAC, Plaintiffs describe and quote from what they characterize as

1 ‘recommended standardized forms for California Bail Agents.’ The document attached hereto at
 2 Exhibit 6 consists of the ‘2013 Standardize Forms’ that are quoted and referenced in paragraph
 3 161 of the TCAC.” *Id.*

4 However, Exhibit 6 is not a true and correct copy of CBAA000008537. This is clear from
 5 the face of the document, which includes not the typeface stamped Bates Number on the true
 6 document produced to Plaintiffs, but a handwritten “8357” in blue ink. Plaintiffs also discovered
 7 that Exhibit 6 omits pages 10-18 of the cited document, and also cuts off portions of the bottom of
 8 the pages that it does include. The complete document is filed herewith. *See Harvey Decl., Ex.*
 9 B. This omission is material, because the TCAC references evidence contained in the missing
 10 pages. Paragraph 161 of the TCAC alleges as follows:

11 Additionally, in 2013, Defendants including Accredited, AIA, ASC,
 12 Lexington, Lexon, Sun, Financial Casualty, and Williamsburg were
 13 members of CBAA’s “Bail Bond Project”, which resulted in
 14 recommended standardized forms for California Bail Agents. Draft
 15 forms dated 2013 state that premium fees are “typically ten percent
 16 of the amount of bond.” The forms make no reference to rebates, nor
 provide any space in which to input a rebate. The California addenda
 to the draft standardized forms assert: “This addendum shall be
 attached to every Bail Bond Application and Agreement entered into
 in the State of California.”

17 The tenth page of the complete document (CBAA000008546), omitted from Exhibit 6 of the
 18 Anderson Declaration, is entitled: “Bail Bond Premium Receipt and Statement of Charges.” The
 19 bottom of the document identifies it as “Bail Standard Form No. 3,” and contains a copyright
 20 notification from “Lexington National Insurance Corporation, et al.” The form has spaces for
 21 “Bail Bond Premium” and “Total Charges” defined as “premium plus any itemized expenses.”
 22 As Plaintiffs allege in Paragraph 161 of the TCAC, the “Standard Form” makes no reference to
 23 rebates, and provides no space in which to input a rebate. Further, by defining “Total Charges” as
 24 “premium plus any itemized expenses,” the form excludes the possibility of a rebate, since any
 25 rebate would lower “Total Charges” below “premium plus itemized expenses.”

26 In addition, the last page of the complete document (CBAA000008554), also omitted
 27 from Exhibit 6 of the Anderson Declaration, is entitled “California Addendum to Indemnitor
 28 Application and Agreement.” The bottom of the document identifies it as “CA-Bail Form No. 2.”

1 As Plaintiffs allege in Paragraph 161 of the TCAC, Paragraph 6 of the form requires that the form
 2 be attached to every bail bond application and agreement entered into in the State of California.

3 When Plaintiffs asked Defendants about these omissions, Defendants responded that their
 4 mistaken filing was the “result of an oversight.” Harvey Decl. ¶ 7. Exhibit 6 should be
 5 disregarded, and the Court should instead rely on the actual true and correct copy of
 6 CBAA000008546, filed herewith. *See* Harvey Decl., Ex. B.

7 **Exhibit 8.** Defendants purport to attach as Exhibit 8 a “true and correct copy of a
 8 document bates labeled SFAA000387-SFAA000390, which is a document produced by nonparty
 9 Surety & Fidelity Association of America in this litigation.” Dkt. No. 285 ¶ 9. Defendants
 10 continue: “In paragraph 123 of the TCAC, Plaintiffs describe and quote from what it alleges to
 11 be ‘pricing reports’ prepared by the Bail Bond Advisory Committee of the Surety and Fidelity
 12 Association of America. The document attached hereto at Exhibit 8 is a June 17, 2019 email
 13 from Devin Girardi of SFAA, with an attachment consisting of the 2018 Bail Bond Supplement,
 14 which is an example of the ‘pricing reports’ that contain the quotations described and quoted from
 15 in paragraph 123 of the TCAC.” *Id.*

16 However, Defendants have since acknowledged that Exhibit 8 is only an *excerpt* of the
 17 relevant document produced in discovery, and that Defendants excluded the remaining pages of
 18 the document based on Defendants’ unilateral determination that they “do not believe they have
 19 any bearing on the references in the TAC at paragraph 123.” Harvey Decl. ¶ 8. Plaintiffs believe
 20 that determination is for the Court, and that the document should be submitted in its entirety. The
 21 complete document is filed herewith. *See* Harvey Decl., Ex. C.

22 **Exhibit 10.** Defendants purport to attach as Exhibit 10 a “true and correct copy of a
 23 document bates labeled CDI_000000262-CDI_000000265, which is a document produced by
 24 nonparty California Department of Insurance in this litigation.” Dkt. No. 285 ¶ 11. Defendants
 25 continue: “In paragraph 129 of the TCAC, Plaintiffs describe and quote from a document that it
 26 alleges reflected ‘a failed attempt on April 13, 2010 to persuade CDI to require a ‘fixed 10% bond
 27 rate.’” The document attached hereto at Exhibit 10 consists of meeting notes from the CDI Bail ad
 28 hoc committee, which includes the quotation found in paragraph 129 of the TCAC.” *Id.*

1 As with Exhibit 8, however, Defendants have since acknowledged that Exhibit 10 is only
 2 an *excerpt* of the relevant document produced in discovery. The complete document is filed
 3 herewith. *See* Harvey Decl., Ex. D.

4 **III. CONCLUSION**

5 For the reasons set forth above, Plaintiffs respectfully request that the Court disregard
 6 Exhibits 4, 6, 8, and 10 to the Anderson Declaration, and instead rely upon Exhibits A, B, C, and
 7 D, respectively, to the Harvey Declaration.

8
 9 Dated: October 26, 2022

Respectfully submitted,

10 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

11 By: /s/ Dean M. Harvey

12 Dean M. Harvey (SBN 250298)
 13 Katherine C. Lubin (SBN 259826)
 14 Michelle A. Lamy (SBN 308174)
 15 Nigar A. Shaikh (SBN 343554)
 16 Miriam E. Marks (SBN 332351)
 17 LIEFF CABRASER HEIMANN & BERNSTEIN,
 18 LLP
 19 275 Battery Street, 29th Floor
 20 San Francisco, CA 94111
 21 Telephone: (415) 956-1000
 22 dharvey@lchb.com
 23 kbenson@lchb.com
 24 mlamy@lchb.com
 25 nshaikh@lchb.com
 26 mmarks@lchb.com

27 *Interim Class Counsel*

28 Benjamin David Elga (*pro hac vice*)
 29 Brian James Shearer (*pro hac vice*)
 30 JUSTICE CATALYST LAW
 31 25 Broadway, 9th Floor
 32 New York, NY
 33 Telephone: (518) 732-6703
 34 belga@justicecatalyst.org
 35 brianshearer@justicecatalyst.org

36 David Seligman (*pro hac vice*)
 37 TOWARDS JUSTICE
 38 1410 High Street, Suite 300
 39 Denver, CO 80218
 40 Telephone: (720) 441-2236
 41 Facsimile: (303) 957-2289

1 david@towardsjustice.org
2

3 Stuart T. Rossman (*pro hac vice*)
4 NATIONAL CONSUMER LAW CENTER
5 7 Winthrop Square, Fourth Floor
6 Boston, MA 02110-1245
7 Telephone: (617) 542-8010
8 Facsimile: (617) 542-8028
9 srossman@nclc.org
10 bhighsmith@nclc.org
11

12 Cindy Pánuco (SBN 266921)
13 Stephanie Carroll (SBN 263698)
14 Nisha Kashyap (SBN 301934)
15 PUBLIC COUNSEL
16 610 South Ardmore Avenue
17 Los Angeles, California, 90005
18 Telephone: (213) 385-2977
19 Facsimile: (213) 201-4722
20 cpanuco@publiccounsel.org
21 scarroll@publiccounsel.org
22 nkashyap@publiccounsel.org
23

24 *Counsel for Plaintiffs and the Proposed Class*
25
26
27
28